

901 Basin Ave.  
P.O. Box 1698  
Bismarck, ND 58502-1698

Marlene Dortch  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re:** *Connect America Fund, WC Docket, No. 10-90, National Broadband Plan for Our Future, GN Docket No. 09-51, Establishing Just and Reasonable Rates for Local Exchange Carriers, 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92*

To the Commission:

Todd Linke hereby files this letter in the above-captioned dockets. Finley Engineering Company, Inc. is an industry leading provider of engineering services for rural telecommunications providers. Finley Engineering Company has provided technical support to rural telecommunications providers and trade associations participating in the proceeding, and remains deeply interested in the outcome of the above-captioned proceedings. Toward that end, Finley Engineering Company was encouraged by the Consensus Framework created by rural, mid-size, and large carriers that could serve as the basis for sensible, measured, and carefully calibrated USF and inter-carrier compensation (ICC) reforms.

Finley Engineering Company, however, is now gravely concerned that reported amendments to – or wholesale departures from – the Consensus Framework will wreak damaging impacts on incentives to deploy and maintain broadband networks in rural service areas. If the reported potential amendments are adopted, it is the opinion of Finley Engineering Company that investor discouragement will continue, if not increase, leading to depressed investment and resultant negative trends on broadband deployment Nationwide. These adverse repercussions will be visited not only upon rural telecommunications providers, but also upon consumers, as well as Finley Engineering Company and similarly-situated entities that are suppliers to the telecommunications markets. For the last several months, we have witnessed an increasing reluctance of rural carriers in North Dakota, South Dakota and Montana, to move ahead on broadband projects because of the uncertainty of cost recovery mechanisms in this industry.

In these regards, it is particularly important that the Commission refrain from adopting rules that affect investments retroactively. Doing so will shatter market confidence in the industry and devastate market trust in the regulatory process: investors will view regulatory structures as shifting, unstable, and unpredictable if retroactively applicable rules are adopted. No rational investor will direct capital to projects whose ability to recover costs and generate income is subject to retroactive fiat.

Moreover, the Commission must position USF affirmatively for the future. The Commission must avoid the temptation to bandage existing programs, leaving true reform for an undetermined future time. That approach would simply extend market overhang and threaten debilitating market uncertainty for rural telecommunications, rural America, and interdependent economic communities. If the Commission is not ready to adopt fully the RLEC portion of the Consensus Framework at this time, then it should, at the least, incorporate it as the primary path forward for reform in upcoming notices of proposed rulemaking.

For the reasons stated above, we urge the Commission to foster market certainty and avoid outcomes that will depress investor confidence and the resultant ability of rural telecommunications providers to deploy, maintain, and operate advanced networks. The Commission encouraged successfully the groundbreaking Consensus Framework, and yet appears to be departing in material respects from it. The Commission should proceed with caution in light of the broader ripple effects of reform throughout the economy, and should look above all else to ensure that reform does not undermine broadband deployment, investor and lender confidence, or the needs of consumers. The Commission should look back to the sensible and carefully constructed roadmap for reform set forth in the Consensus Framework in the closing days of its reform process.

Respectfully submitted,



Todd D. Linke, P.E.  
Vice President  
Finley Engineering Company, Inc.